

Please amend claim 14 as follows:

14. (Twice amended) A method of reusing the easy open, reusable closure apparatus for a container having a terminal end with an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut, the closure apparatus comprising:

a cap portion having a top, a peripherally depending side wall having a radially inwardly extending peripheral lip that engages said bead undercut sealably securing said closure to said container, a material housed by said container is secured in said container by said cap portion; and

a handle depending from said cap portion, said handle further comprising an upper portion, a lower portion, and a fulcrum portion there between said upper and lower portions; the method comprising the steps of:

providing a container; and

pressing said cap portion of the easy open closure apparatus firmly down over said bead until said peripheral lip engages said bead undercut.

#### REMARKS

Claims 1 and 3 through 14 are pending in the present application. Claims 1, 3, 5, 6, 8, 9, 11, 13 and 14 have been amended. No new matter has been introduced by the amendments.

Claims 1 and 3 through 14 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,326,649 to Marino et al. (Marino).

Marino discloses a **dust cover for an aerosol container**. To secure the dust cover, one or more fixed lugs project inwardly from the bottom edge of the body to engage a rim on the

container. The cover is further secured by a release lug. A tab attaches an assurance lug to the body, the tab being permanently deformable to cause the assurance lug to be disengaged from the rim. The cover can then be removed by disengaging the release lug which is moved from its normal position by an actuator.

Claim 1 recites an easy open, reusable closure apparatus for a container. The container has a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The closure apparatus has a cap portion having a top, a peripherally depending side wall comprising an inner surface that conforms to the bead outer surface and a radially inwardly extending peripheral lip that engages the bead undercut sealably securing the closure to the container. Material housed in the container is secured in the container by the cap portion. The cap portion has a handle depending from the cap portion.

Claim 13 recites a method of opening a container using the easy open, reusable closure apparatus for a container having a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The reusable closure apparatus comprises a cap portion having a top, a peripherally depending side wall having a radially inwardly extending peripheral lip that engages the bead undercut sealably securing the closure to the container. Material housed in the container is secured in the container by the cap portion. The closure apparatus also comprises a handle depending from the cap portion. The handle further comprises an upper portion, a lower portion, and a fulcrum portion there between the upper and lower portions. The method comprises the steps of holding the container and the lower handle portion of the handle with at least one hand and depressing the lower handle portion toward the container until the peripheral lip disengages the bead undercut.

Claim 14 recites a method of reusing the easy open, reusable closure apparatus for a container having a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The reusable closure apparatus comprises a cap portion having a top, a peripherally depending side wall having a radially inwardly extending peripheral lip that engages the bead undercut sealably securing the closure to

the container. Material housed in the container is secured in the container by the cap portion. The reusable closure also comprises a handle depending from the cap portion. The handle further comprises an upper portion, a lower portion, and a fulcrum portion there between the upper and lower portions. The method of reusing the reusable closure apparatus comprises the steps of providing a container and pressing the cap portion of the easy open, reusable closure apparatus firmly down over the bead until the peripheral lip engages the bead undercut.

It is respectfully submitted that Marino fails to remotely disclose a closure apparatus that sealably secures a material housed in a container, as recited in claims 1, 13 and 14. To the contrary, Marino is careful to disclose that his invention is only **a dust cover for an aerosol container** (col. 1, lines 44-46 and 59-61), which does not have an open top where the contents can easily spill out. In fact, the contents of the Marino container never come in contact with the dust cover, therefore the dust cover never functions to secure the contents in the container, unlike the claimed invention. To the contrary, the whipped cream or other material contained in Marino's invention is secured within the container by a separate valve under the container's dispensing "sleeve" (col. 3, lines 6-9). It is respectfully asserted that if the contents were in contact with Marino's dust cover, the contents would leak out under the bottom edge of the dust cover adjacent to the container's rim, which is designated by Marino as 22. Clearly, the dust cover cannot, nor is it intended to, provide a material or fluid-tight seal, to secure the contents in the container, as in the presently claimed invention.

It is respectfully submitted that not only is the design of the dust cover not capable of securing such contents, the dust cover does not possess the strength or structure necessary to hold the dust cover on top of the container sufficient to restrain the contents inside. Certainly, the containment of a pressurized material in contact with Marino's dust cover would be impossible, which is contrary to the claimed invention, which is designed to secure materials, such as pressurized contents, in the container (specification, page 4, lines 24-25 and page 5, lines 29-32).

Furthermore, once tab 46 is broken on the Marino invention, the dust cover is reusable, but Marino clearly states that **it will not be held as securely to the container as it was previously with four tabs** (col. 4, lines 47-49). This is further evidence that the Marino dust cover does not itself function to securely contain the contents of the container in the container, like the closure apparatus recited in claims 1, 13 and 14.

Another important distinction between Marino's dust cover and the claimed closure apparatus is their respective methods of operation. Marino's dust cover employs a standard inverse pressure sequence. Descending pressure on tab 53/51 in a southerly direction causes the dust cover to move 180 degrees in an opposite, northerly direction. In contrast to this movement, pressure on the handle lower portion of the claimed closure apparatus in a lateral, Easterly direction toward the side of the container, causes the cap portion to move 90 degrees upward in a Northerly direction. To redirect an applied force back toward the source is simple. To redirect such force in a 90-degree direction away from the force is significantly more complex. Clearly, Marino fails to anticipate this method of operation, as recited in claim 13.

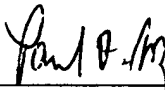
Furthermore, the fundamental operating mechanism is different between Marino's dust cover and the claimed closure apparatus. Marino describes the movement of tab 53/51, which has the effect of pushing the dust cover up, as "bending, in a hinge-like manner". The principle of the closure apparatus is not a hinge, but a lever over a fulcrum. This is an important distinction and defines the fundamental principle that causes each system to operate. Clearly, Marino fails to anticipate this mechanism, as recited in claim 13.

In summary, the claimed closure apparatus is strong and stable and does not experience permanent deformation or destruction during use. Its operation is single handed with only one lever stroke for complete effect. Most notably, its function serves as a genuine materials barrier with a fluid-tight seal against an open orifice, and its integrity on reuse is equal to its pre-removal condition. Marino's fails to disclose or remotely suggest such a container closure.

It is respectfully submitted that Marino fails to anticipate the invention recited in claims 1 and 3 through 14. As such, Applicant respectfully requests reconsideration and withdrawal of the §102(b) rejection.

It is submitted that this is a full and complete response to the Office Action. Applicants respectfully request reconsideration and withdrawal of all rejections of the claims and passage of this application to allowance.

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